

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nora Chanko	Team: Squad #3	CCRB Case #: 201605492	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/22/2016 6:30 PM	Location of Incident: [REDACTED]	Precinct: 103	18 Mo. SOL 12/22/2017	EO SOL 12/22/2017	
Date/Time CV Reported Fri, 06/24/2016 1:00 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 06/24/2016 1:00 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Degirolamo	06632	951665	103 PCT
2. POM Daniel Gasperetti	13198	950480	103 PCT
3. POM Wayne Costello	23629	950244	103 PCT
4. SSA Mary Humburg	03709	932564	103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brian Lyons	31772	953026	103 PCT
2. POM Michael Rotanz	13517	951182	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Degirolamo	Abuse: Police Officer Joseph DeGirolamo stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
B.POM Daniel Gasperetti	Abuse: Police Officer Daniel Gasperetti stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
C.POM Joseph Degirolamo	Force: Police Officer Joseph DeGirolamo used physical force against § 87(2)(b)	[REDACTED]
D.POM Daniel Gasperetti	Force: Police Officer Daniel Gasperetti used physical force against § 87(2)(b)	[REDACTED]
E.POM Daniel Gasperetti	Discourtesy: Police Officer Daniel Gasperetti spoke discourteously to § 87(2)(b)	[REDACTED]
F.POM Joseph Degirolamo	Abuse: Police Officer Joseph DeGirolamo searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
G.POM Daniel Gasperetti	Abuse: Police Officer Daniel Gasperetti searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
H.SSA Mary Humburg	Abuse: Sergeant Mary Humburg searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	[REDACTED]

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via phone on June 24, 2016.

On June 22, 2016, at approximately 6:15 p.m., § 87(2)(b) was driving a rental vehicle on Jamaica Avenue and Carpenter Avenue in Queens when he was pulled over by PO Joseph DeGirolamo and PO Daniel Gasperetti of the 103rd Precinct (**Allegations A and B**). PO DeGirolamo and PO Gasperetti used force to remove § 87(2)(b) from the vehicle, place him on the ground, and handcuff him (**Allegations C and D**). PO Gasperetti allegedly used profanity towards § 87(2)(b) (**Allegation E**). PO Brian Lyons, PO Wayne Costello, PO Michael Rotanz, and Sergeant Mary Humburg of the 103rd Precinct arrived on the scene. PO DeGirolamo, PO Gasperetti, and Sgt. Humburg searched § 87(2)(b)'s vehicle (**Allegations F, G, and H**). § 87(2)(b) was transported back to the stationhouse by PO DeGirolamo and PO Lyons, and PO Gasperetti drove § 87(2)(b)'s car to the stationhouse. § 87(2)(b) was arrested for resisting arrest, obstructing governmental administration, criminal use of drug paraphernalia, fleeing an officer in a motor vehicle, unlawful possession of marijuana, illegal signaling, and a speed violation. § 87(4-b), § 87(2)(g)

No video footage was found for this incident.

This case was closed after 90 days due to difficulty scheduling officer interviews.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to arrest.
- § 87(2)(b)
- On September 26, 2016, a FOIL registration confirmed that § 87(2)(b) did not file any Notices of Claim for this incident (01 Board Review).

Civilian and Officer CCRB Histories

- § 87(2)(b) § 87(2)(b)
- PO DeGirolamo has been a member of the NYPD for four years and has one previous CCRB complaint, with one allegation of physical force that was not substantiated. In Case No. 201307110, PO DeGirolamo apprehended the complainant as he was fleeing; the complainant sustained bruises and lacerations.

- PO Gasperetti has been a member of the NYPD for five years and has four previous CCRB complaints resulting in 13 allegations, two of which were substantiated. § 87(2)(g)
- Sgt. Humburg has been a member of the NYPD for 13 years and has eight previous CCRB complaints that resulted in 19 allegations. Case No. 201214636 contains an allegation of a vehicle search; the complaint was mediated. Case No. 201400314 also contains an allegation of a vehicle search, which was exonerated.
- PO Costello has been a member of the NYPD for five years; this is his first complaint with the CCRB.

Potential Issues

- § 87(2)(b) alleged that he sustained multiple injuries during this incident, and stated that he saw a doctor after he was released from custody. § 87(2)(b) provided the last name of his family doctor, and the intersection at which the practice was located; however, the investigation could not identify the medical practice, or the doctor he saw on that day, based on this information. § 87(2)(b) was contacted and asked to provide the necessary information, but was uncooperative. As such, medical records could not be obtained.
- § 87(2)(b) alleged that the fenders and door panels were removed from the rental vehicle during the search, and the panels were not replaced. § 87(2)(b) did not know whether the car was damaged but said that he had received a letter from the rental agency. § 87(2)(b) was contacted multiple times after his CCRB interview to determine whether the car was damaged and whether such damage was documented by the rental agency. § 87(2)(b) did not respond.
- PO Rotanz and Sgt. Humburg were not interviewed because their statements would not have affected the recommended dispositions.

Findings and Recommendations

Explanation of Subject Officer Identification

- Although § 87(2)(b) alleged that PO Lyons used force in his phone statement, he did not repeat this in his interview and could not describe any other officers who used force. The evidence shows that PO DeGirolamo and PO Gasperetti primarily used force, with only minor, if any, assistance from other officers. Therefore, allegations of force have only been pleaded PO DeGirolamo and PO Gasperetti.

Allegations Not Pleaded

- Abuse of Authority: § 87(2)(b) alleged that a commemorative medallion and replica of his father's shield were not vouchered or returned to him and stated that PO DeGirolamo told him he had dropped it. Because this was a procedural issue concerning property, a spin-off was generated and sent to IAB and an allegation of property seizure was not pleaded.
- Abuse of Authority: § 87(2)(b) alleged that PO DeGirolamo, PO Gasperetti, and Sgt. Humburg searched his vehicle. During PO Costello's CCRB interview, he stated that he may have searched the car, but did not remember definitively. PO DeGirolamo and PO Lyons

stated that officers on the scene searched the car, but did not mention PO Costello specifically. Because § 87(2)(b) did not allege that PO Costello searched his vehicle, and because no officer identified PO Costello as an officer who searched the vehicle, a vehicle search allegation was not pleaded against PO Costello.

- Abuse of Authority: § 87(2)(b) alleged that during the search of his vehicle, panels were removed and were not returned. However, because § 87(2)(b) never confirmed whether his vehicle was damaged, a damage of property allegation was not pleaded.

Allegation A – Abuse of Authority: Police Officer Joseph DeGirolamo stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B – Abuse of Authority: Police Officer Daniel Gasperetti stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) was driving a rental vehicle in the vicinity of 196th Street and Jamaica Avenue in Queens while listening to music and complying with all traffic laws (03 Board Review). § 87(2)(b) noticed an unmarked dark grey Ford Escape driving behind him. The vehicle did not have its siren on. § 87(2)(b) pulled over and turned his music down. PO DeGirolamo and PO Gasperetti exited the unmarked Ford Escape and approached § 87(2)(b)'s vehicle. By the time the officers reached § 87(2)(b)'s vehicle, his window was down. The officers told § 87(2)(b) that they had been following him for five blocks; § 87(2)(b) was unaware of this because he had been listening to music. § 87(2)(b) stated that he was not given any tickets and did not know what he was being charged with; however, he also said that an officer told him that he was stopped for speeding. § 87(2)(b) informed the investigation that he had no previous criminal history.

In § 87(2)(b)'s original phone statement, and in a subsequent statement to the investigation, § 87(2)(b) stated that the lights of the vehicle were on, but the sirens were not (04 and 05 Board Review). § 87(2)(b) stated that when he saw the vehicle's lights in his rear view mirror he pulled over.

In his statement to the CCRB, PO DeGirolamo said that he and PO Gasperetti were driving on Jamaica Avenue in the vicinity of 175th Street when he observed a vehicle drive quickly past their vehicle in the right lane, and then change into the left lane without signaling (06 Board Review). PO DeGirolamo and PO Gasperetti put on the lights and sirens of the police vehicle. PO DeGirolamo estimated that the vehicle was driving at about 50 miles per hour, given that he and his partner were traveling at that speed behind the vehicle. After about five blocks, the vehicle still had not pulled over. PO DeGirolamo and PO Gasperetti had a brief discussion in which they noted that the vehicle was not stopping, and PO Gasperetti put a call over on the radio. The vehicle continued to drive at about 50 miles per hour. The lights were constant, and they changed the sirens between settings to try and get the driver's attention. At the corner of Jamaica Avenue and Carpenter Avenue, which is approximately 20 blocks away, the vehicle pulled from the left side of the road to the curb. PO DeGirolamo estimated that they had been following the vehicle and trying to pull it over for about five to 10 minutes. No commands were issued over the loudspeaker. PO DeGirolamo's memo book entries note that § 87(2)(b) drove around the officers in the right lane at a high speed, about 50 miles per hour, changed to the left lane without signaling, and refused to pull over (10 Board Review).

Allegation C – Force: Police Officer Joseph DeGirolamo used physical force against

§ 87(2)(b)

Allegation D – Force: Police Officer Daniel Gasperetti used physical force against

§ 87(2)(b)

§ 87(2)(b) stated that PO DeGirolamo and PO Gasperetti told him to get out of the vehicle (03 Board Review). PO Gasperetti opened § 87(2)(b)'s door from the outside, grabbed his wrist, and said, "If you don't get out I'm going to pull you out." § 87(2)(b) did not refuse, but PO Gasperetti did not give him a chance to get out of the car by himself and "yanked" him out of the vehicle. PO DeGirolamo and PO Gasperetti pushed § 87(2)(b) onto the trunk of his car. The officers tried to place § 87(2)(b) in handcuffs; one officer placed § 87(2)(b)'s left hand in handcuffs first, while the other officer placed his right hand in handcuffs. § 87(2)(b)'s right hand was down by his side, but he was not trying to prevent the officers from handcuffing him. § 87(2)(b) looked over his left shoulder and PO DeGirolamo and PO Gasperetti "threw" his upper body to the ground, causing him to sustain abrasions. Additional officers arrived on the scene. At first, § 87(2)(b) said that he was kned in the back and neck; later in the interview, he said that officers stepped on his back and neck. § 87(2)(b) alleged that officers dragged him on the ground, causing him to sustain bruises and abrasions to his right elbow. § 87(2)(b) did not specify who dragged him, or when or to where he was dragged. PO Gasperetti and some other officers picked § 87(2)(b) up, lifted him off the ground, and placed him sideways in the back of a police vehicle. § 87(2)(b) did not feel pain until after he was released. § 87(2)(b) went to the doctor § 87(2)(b). § 87(2)(b) had been going to therapy for issues with his lower back and neck, which were exacerbated by the incident. § 87(2)(b) had handcuff marks on his left wrist and abrasions on his right knee, right shoulder, the bottom of his right elbow, and the left side of his right forearm.

§ 87(2)(g), § 87(2)(b)

§ 87(2)(b) In § 87(2)(b)'s initial phone statement, he stated that he exited his vehicle immediately after he pulled over, and before he was given any commands to do so. § 87(2)(b) stated that PO Lyons "threw" him onto the ground by swinging him and then pushing him on to the ground. § 87(2)(b) stated that he felt knees on his back and neck, but did not say that he felt feet on his body. § 87(2)(b) alleged the injuries to his right elbow, but he did not allege that he was dragged on the ground; he stated that after being handcuffed, he was lifted off the ground and placed in the back of the police vehicle.

PO DeGirolamo stated that immediately after § 87(2)(b) pulled over, he exited his vehicle, walked into the right lane of traffic and screamed, "Why the fuck did you stop me? You can't stop me," before PO DeGirolamo and PO Gasperetti exited their vehicle or gave him any commands to exit (06 Board Review). PO DeGirolamo and PO Gasperetti exited their vehicle and instructed § 87(2)(b) to enter his vehicle. § 87(2)(b) initially did not comply and continued pacing in the street. After multiple commands, § 87(2)(b) got back into the driver's seat but left the door open, and continued to yell, "You can't stop me, don't fucking touch me." PO DeGirolamo and PO Gasperetti walked towards the driver's side of the vehicle. PO DeGirolamo smelled the odor of marijuana coming from the vehicle as soon as he approached it. PO DeGirolamo asked § 87(2)(b) to step out of the vehicle because of the marijuana about five times but he did not comply. PO DeGirolamo tried to calm § 87(2)(b) down, but he continued screaming. PO DeGirolamo decided

to pull § 87(2)(b) out of the vehicle and grabbed his left wrist to do so. PO DeGirolamo stated that he may have placed another hand on § 87(2)(b)'s arm, and that PO Gasperetti may have assisted, but he could not be sure. § 87(2)(b) yelled, "Don't touch me. You can't do this."

Once out of the vehicle, § 87(2)(b) pulled his arm away as he and the officers stood in the right lane of traffic. PO DeGirolamo told § 87(2)(b) to move to the rear of the vehicle about three or four times, and the officers attempted to guide him there by grabbing his hands and arms. § 87(2)(b) did not comply and screamed, pushed into the officers, and pulled away from them. PO DeGirolamo and PO Gasperetti were unable to move him towards the back of the vehicle and could not handcuff him as he pulled his arms forward. PO DeGirolamo did not remember whether they made contact with the car or leaned against it, but he stated that § 87(2)(b) was not slammed against the vehicle. PO DeGirolamo and PO Gasperetti knew they had to take § 87(2)(b) to the ground to gain control of him, so they pushed him forward as the three of them went to the ground in a controlled manner. Once on the ground, § 87(2)(b) kicked his legs, and lay on his stomach moving his arms under his body until he turned around so he was on his back. As § 87(2)(b) did so he scratched the right side of his face on the ground. § 87(2)(b) hit PO DeGirolamo in the face. PO DeGirolamo did not remember if it was with an open hand or a fist. § 87(2)(b) pulled off PO DeGirolamo's shield, which was around his neck, and threw it across Jamaica Avenue while screaming, "Don't touch me."

At this point, one or two other marked units arrived at the scene, including PO Lyons. As the other officers approached, § 87(2)(b) was lying on his back with his hands towards his chest. Two other officers PO DeGirolamo could not recall helped him and PO Gasperetti handcuff § 87(2)(b) by turning him onto his stomach. PO DeGirolamo was on § 87(2)(b)'s right, PO Gasperetti was on his left, and another officer may have held § 87(2)(b)'s legs to prevent him from kicking. PO DeGirolamo denied putting his knees on § 87(2)(b)'s back, but may have put his knees on § 87(2)(b)'s elbow. PO DeGirolamo did not observe any other officers put their knees on § 87(2)(b)'s back. § 87(2)(b) was placed in handcuffs and lifted off the ground without issue. § 87(2)(b) was guided to a police vehicle, not dragged on the ground.

Once § 87(2)(b) was in the vehicle, PO DeGirolamo noticed scratches on the right side of § 87(2)(b)'s face and his right elbow. PO DeGirolamo asked § 87(2)(b) if he was okay and if he needed any medical assistance. § 87(2)(b) said he was ok, and he refused medical attention. § 87(2)(b) did not complain of any other injuries, and PO DeGirolamo denied there being other injuries. On the way back to the stationhouse, § 87(2)(b) apologized profusely. At the stationhouse, PO DeGirolamo asked § 87(2)(b) if he needed an ambulance but he refused and signed a Refused Medical Attention form. PO DeGirolamo's memo book entries stated that § 87(2)(b) refused to pull over and refused to exit his vehicle, was pulled out of the vehicle, flailed his arms, slapped PO DeGirolamo, and pulled his shield from his neck (10 Board Review).

PO Gasperetti stated that he approached the passenger side of the vehicle while PO DeGirolamo approached the driver's side (07 Board Review). PO DeGirolamo asked for § 87(2)(b)'s license and registration multiple times, but § 87(2)(b) refused. PO Gasperetti walked to the driver's side because he thought § 87(2)(b) was going to "fight" PO DeGirolamo because of his body language and actions. When PO DeGirolamo held § 87(2)(b)'s hand and arm and pulled him out of the vehicle, he resisted by shaking his arm, flailing, and twisting his body. PO Gasperetti held § 87(2)(b)

§ 87(2)(b)'s other arm but § 87(2)(b) pulled his arms and hands away to prevent them from handcuffing him. § 87(2)(b) grabbed PO DeGirolamo's shield, broke the chain, and threw it onto the ground before they went to the ground.

While on the ground with the male, PO Lyons, PO Rotanz, PO Costello, and Sgt. Humburg arrived. PO Lyons and PO Rotanz helped gain control of § 87(2)(b). PO Gasperetti did not put his knees on § 87(2)(b)'s back, but it was possible other officers did. PO Gasperetti and PO DeGirolamo placed one hand in handcuffs, and PO Lyons and PO Rotanz handcuffed the other. Once in handcuffs, § 87(2)(b) calmed down and apologized. PO Gasperetti and PO DeGirolamo picked § 87(2)(b) up and walked him to the rear of his vehicle, where he was searched for contraband. § 87(2)(b) was not placed or thrown against the vehicle. § 87(2)(b) then walked over to the police car with two officers who had responded to the scene; he was not dragged. § 87(2)(b) entered the vehicle by himself. He had a scrape on his elbow and a mark on his forehead, but did not complain that he was in pain and refused medical attention upon request. PO Gasperetti's memo book entries state that § 87(2)(b) refused multiple commands and resisted arrest (11 Board Review).

PO Lyons stated that when he arrived, PO DeGirolamo and his partner were picking up a handcuffed § 87(2)(b) from the ground (08 Board Review). PO Lyons did not observe any officers take § 87(2)(b) to the ground or place him in handcuffs. By the time he arrived, the situation appeared to have "settled down," and § 87(2)(b) was agitated but not resisting. § 87(2)(b) was speaking quickly and loudly, saying things like "What did I do?" PO Lyons did not help handcuff § 87(2)(b) or restrain him in any way. PO Lyons did not place his knees on his back or any part of his body, and did not observe any other officers do so. PO DeGirolamo and PO Gasperetti lifted § 87(2)(b) up from the ground and brought § 87(2)(b) to their vehicle, where PO Lyons sat with him in the back of the vehicle. PO Lyons did not observe any injuries on § 87(2)(b).

PO Costello said that as he and Sgt. Humburg approached the scene, § 87(2)(b) lay handcuffed face down on the ground in the right lane, adjacent to his vehicle, with PO DeGirolamo and PO Gasperetti on top of him (09 Board Review). PO Costello did not recall their knees being on him, however. PO Costello said that the scene was chaotic, and described § 87(2)(b)'s demeanor as "surprised." PO Lyons and another officer were also present. PO Costello did not see how § 87(2)(b) was handcuffed. § 87(2)(b) only remained on the ground for about 10 seconds before PO DeGirolamo and PO Gasperetti picked him up. PO Lyons may have helped § 87(2)(b) up from the ground. § 87(2)(b) was searched for contraband and nothing was recovered from his person. § 87(2)(b) walked to PO Lyons' vehicle and entered without assistance; he was not dragged on the ground or thrown or forced into the vehicle by any officers. PO DeGirolamo told PO Costello that § 87(2)(b) ripped the chain of his shield from around his neck. PO Costello did not observe any injuries on § 87(2)(b) but said that it was possible that he could have been injured during the scuffle. PO Costello did not hear the individual complain that he was in pain or that he was injured.

§ 87(2)(b) provided pictures he took of the injuries he sustained from the incident (17 Board Review). These pictures show handcuff marks on his left wrist, and abrasions on the right side of his face, the left side of his right forearm, his right elbow, his right knee, and his right shoulder.

During his CCRB interview, which was two weeks after the incident, pictures were taken of the marks and scabs that resulted from the incident (18 Board Review).

§ 87(2)(b) was charged with resisting arrest, fleeing officers in a motor vehicle, and obstruction of governmental administration (12 Board Review). The narrative section of the arrest report, prepared by PO DeGirolamo, notes that § 87(2)(b) refused to pull over, refused multiple commands to exit the vehicle, and resisted arrest by flailing his arms and legs. The Medical Treatment of Prisoner Report, which was completed by PO DeGirolamo and signed by § 87(2)(b) notes that § 87(2)(b) had injuries on his right elbow that were sustained while § 87(2)(b) was being handcuffed and resisting arrest (19 Board Review). The report also shows that § 87(2)(b) refused medical attention in the field and at the station house.

Patrol Guide procedure 221-02 allows officers to apply the reasonable force necessary to gain control of an uncooperative subject, and take necessary action to protect the life and personal safety of all persons present (20 Board Review).

It is undisputed that PO DeGirolamo and PO Gasperetti used force against § 87(2)(b) causing him to sustain injuries. § 87(2)(g), § 87(2)(b)

§ 87(2)(b)

Allegation E – Discourtesy: Police Officer Daniel Gasperetti spoke discourteously to

§ 87(2)(b)

§ 87(2)(b) stated that while PO DeGirolamo and PO Gasperetti were trying to place him in handcuffs, he asked, “What are you doing? Why are you doing this? My dad’s in the 105.” PO Gasperetti allegedly replied, “I don’t give a fuck.” § 87(2)(b) did not make any other allegations of profanity (03 Board Review). § 87(2)(b) did not allege any profanity in his initial phone statement (04, Board Review).

PO DeGirolamo and PO Gasperetti stated that no profanity was used at the scene, and denied making or hearing the alleged statement themselves (06 and 07 Board Review). PO DeGirolamo and PO Gasperetti did not remember § 87(2)(b) stating that his father was a member of the NYPD while at the scene. PO Lyons and PO Costello also denied hearing any profanity used (08 and 09 Board Review).

§ 87(2)(g), § 87(2)(b)

Allegation F – Abuse of Authority: Police Officer Joseph DeGirolamo searched the vehicle in which § 87(2)(b) was an occupant.

Allegation G – Abuse of Authority: Police Officer Daniel Gasperetti searched the vehicle in which § 87(2)(b) was an occupant.

Allegation H – Abuse of Authority: Sergeant Mary Humburg searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) stated that, after he was arrested and placed in an RMP, PO DeGirolamo and PO Gasperetti searched the center console of his rental vehicle, Sgt. Humburg looked in the front and back passenger sides, and all three officers searched the trunk (03 Board Review). § 87(2)(b) could not see what they were doing, but saw odd movements in the vehicle. Though § 87(2)(b) could not see what specifically was done, he said that the officers took items out of his vehicle, took panels off the door, and took the fenders off. The officers found his friend's gold grinder in the trunk. § 87(2)(b) stated that it was not a marijuana grinder and did not have any marijuana in it. There was no marijuana in the car. When § 87(2)(b) retrieved his car, the panels were in the vehicle but had not been put back in place. In addition, his belongings had been moved to the floor and the seats of the vehicle.

PO DeGirolamo stated that an officer remained with § 87(2)(b) in the police vehicle while he searched § 87(2)(b)'s vehicle because of the odor of marijuana he had smelled emanating from the vehicle since he first approached it (06 Board Review). As soon as PO DeGirolamo went back to § 87(2)(b)'s vehicle, he saw a small amount of marijuana in two Ziploc bags on the floor near the driver seat. PO DeGirolamo and the other officers searched the vehicle for additional marijuana. PO DeGirolamo did not know which other officers searched the vehicle, but later said that PO Gasperetti also searched the car. PO DeGirolamo searched the front seats, the center console, the glove compartment, the back seats, and the trunk. PO DeGirolamo recovered a gold grinder from the trunk. PO DeGirolamo stated that the other officers also checked the same areas. PO DeGirolamo estimated that the search of the vehicle lasted for five minutes. PO DeGirolamo said that he did not remove the panels from the doors or the floor, did not look under the cushions in the back seat, and did not take the fenders off the vehicle.

PO Gasperetti largely corroborated PO DeGirolamo's statement (07 Board Review). PO Gasperetti said that Sgt. Humburg also searched the vehicle. PO Gasperetti searched the floors, lifted up the floor mats, and looked on and under the two front seats. PO Gasperetti did not see the marijuana in the vehicle and did not know where the grinder was found because PO DeGirolamo recovered both items.

PO Lyons said that when an officer needs to drive a car to the station house, a preliminary search of the car is usually conducted (08 Board Review). PO Lyons waited in the rear of a police vehicle with § 87(2)(b) and saw officers around § 87(2)(b)'s car; however, he did not see what happened within the car and did not know if any contraband was recovered.

PO Costello stated that an officer waited in a police vehicle with the complainant while PO DeGirolamo and PO Gasperetti searched § 87(2)(b)'s vehicle (09 Board Review). Sgt. Humburg may have assisted. PO DeGirolamo and PO Gasperetti checked the front seat, and possibly the back seat, of the vehicle. PO Costello said that he "probably maybe" opened the back door of the vehicle and looked into the back seat on the driver side, but was not sure. PO Costello said that his intent was to make sure that there was nothing in the back seat of the vehicle that the officers could have missed, and said that often a second officer will search a vehicle. PO Costello did not enter the glove compartment, open any other doors, or look in any other areas of the vehicle. PO Costello did not remember whether the trunk, back seat, or any compartments of the vehicle were searched by any other officers, and said it was possible that he was the only officer to look in the back seat of the vehicle. PO Costello said that other officers probably searched through the entire car at the station house. PO Costello did not recall whether anything was recovered from the vehicle. No panels or bumpers were taken off of the vehicle. PO Costello did not recall smelling the odor of marijuana from the vehicle. The search of the vehicle lasted for about five minutes.

§ 87(2)(b) was charged with the unlawful possession of marijuana, and criminal use of drug paraphernalia (12 Board Review). Two Ziploc bags of marijuana and a grinder were vouchered as arrest evidence (21 Board Review).

The odor of marijuana from a vehicle grants officers probable cause to search the vehicle and its occupants. People v. Chestnut, 43 A.D.2d 260 (3rd Dept.1974) (22 Board Review).

§ 87(2)(g), § 87(2)(b)
[REDACTED]

§ 87(4-b), § 87(2)(g)
[REDACTED]

§ 87(4-b), § 87(2)(g)
[REDACTED]

Squad: 3

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date